



POLICE DEPARTMENT

July 23, 2015

MEMORANDUM FOR: Police Commissioner

Re: Sergeant Lawrence Bosch
Tax Registry No. 933652
17 Precinct
Disciplinary Case No. 2014-12026

The above-named member of the Department appeared before me on April 24, 2015, charged with the following:

1. Said Police Officer Lawrence Bosch, on or about November 21, 2013 at approximately 1215 hours, while assigned to the 84th PCT [sic] and on duty, in the vicinity of 449 Fulton Street, Kings County, used offensive language regarding sexual orientation in that he stated to Person A, in sum and substance: FAGGOT.

P.G. 203-10, Page 1, Paragraph 1 – PUBLIC CONTACT – PROHIBITED CONDUCT

2. Said Police Officer Lawrence Bosch, on or about November 21, 2013 at approximately 1215 hours, while assigned to the 84th PCT [sic] and on duty, in the vicinity of 449 Fulton Street, Kings County, spoke discourteously to Person A in that he stated, in sum and substance: GO BACK TO THE PROJECTS, I'LL SEE YOU ON THE STREET and I'LL SEE YOU IN THE HOOD.

P.G. 203-09, Page 1, Paragraph 2 – PUBLIC CONTACT – GENERAL

The Civilian Complaint Review Board (CCRB) was represented by Suzanne O'Hare, Esq., and Respondent was represented by John Tynan, Esq.

Respondent, through his counsel, entered a plea of Not Guilty to the subject charges. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent is found Guilty of Specification Nos. 1 and 2.

SUMMARY OF EVIDENCE PRESENTED

It is not disputed that on November 21, 2013 at about 1215 hours, Respondent, who was then a police officer, was on duty, in uniform, assigned to the 84 Precinct's Conditions Unit, standing on the sidewalk speaking to a store owner in the vicinity of 449 Fulton Street, Brooklyn.

CCRB called Joshua Saunders as its only witness. Saunders, who is an attorney, testified¹ that during November, 2013, he was employed by Brooklyn Defender Services (BDS). On November 21, 2013, at about 1215 hours, Saunders was walking from Brooklyn Supreme Court on Jay Street to BDS's offices. As Saunders turned from Jay Street onto Fulton Street, he saw a Caucasian male police officer in uniform on the sidewalk engaging in a loud verbal exchange with an African-American man who was wearing civilian clothing. Saunders testified that "the police officer was repeatedly calling this man a faggot and a faggoty ass and the man was saying similar things back to him." The man then walked away towards Jay Street and the officer said "something like, 'I'll see you in the projects, I'll see you back in the hood,' something like that."

After the man walked away, the officer and his partner, who was also in uniform and who had been laughing about the officer's verbal exchange with the man, entered a store called "Elements" on Fulton Street. Saunders followed them into the store so that he could look at the officer's shirt and get his last name and shield number. Three or four days later, Saunders called CCRB to report this incident.

¹ Saunders presently resides in Seattle, Washington. He testified via video conferencing technology.

Saunders was shown a 34-second video recorded on November 21, 2013, at about 1215 hours by a store surveillance camera which depicts the sidewalk area in front of 449 Fulton Street, Brooklyn [CCRB Exhibit (CCRBX) 1]. The parties stipulated the video depicts Respondent and Person A having a brief verbal interaction. Saunders identified himself as the man who is seen on the video standing near Respondent and Person A.

On cross-examination, Saunders testified that his call to CCRB was the first time that he had ever filed a complaint with CCRB. Saunders agreed that the man had used profanity in addressing Respondent and that man spoke to Respondent in a voice that was just as loud as Respondent's voice.

Respondent testified that as he was standing in front of a store on Fulton Street talking with the store owner, a man walked past them. The store owner pointed at the man and told Respondent that the man had been creating problems for his business. Respondent approached the man from behind and said "excuse me" to get his attention. When the man turned around, Respondent recognized him because he had encountered him before and had also previously arrested him on a drug charge, but at that point he did not recall that the man's name was Person A. Person A immediately began uttering profanity at Respondent. In response to this, Respondent testified that he "might have questioned, like, the words that he used against me." The interaction lasted only a matter of seconds because Respondent noticed that there was a bus stop nearby and, to avoid having a public confrontation with Person A on the street which might cause a crowd to gather, he walked away, entered a store and allowed Person A to walk away.

On cross-examination, Respondent acknowledged that Person A had filed a civil lawsuit against him regarding his previous arrest of Person A. Respondent testified that he

could not recall the exact profane words Person A directed at him. Their verbal interaction lasted only eight seconds during which he "might have questioned the words he was using" by asking Person A, "Why are you calling me this?" Respondent testified that Person A could have told him, "Get the hell away from me you piece of shit," and that Person A "possibly could have called me a faggot" but that he could not recall the exact words Person A used. Respondent asserted that he could not specifically recall anything that he had said to Person A, that he had no recollection of having called Person A "a faggot" or "a faggoty ass," and that he had no recollection of having told Person A to go back to "the projects," or that he would see him on the street or in "the hood."

FINDINGS AND ANALYSIS

It is charged that Respondent used offensive language regarding sexual orientation in that he used the word "faggot" in addressing Person A and that he spoke discourteously to Person A in that he stated, in sum and substance, "Go back to the projects; I'll see you on the street; I'll see you in the hood."

The video in evidence which depicts part of the interaction between Respondent and Person A (CCRBX 1) establishes that they had a brief verbal exchange on the sidewalk and it corroborates Saunders' claim that he was standing within earshot during part of their verbal interaction.

I find Respondent guilty because I credit Saunders' testimony that he heard Respondent loudly and repeatedly call Person A a "faggot" and that he also heard Respondent tell Person A "something like," "I'll see you in the projects. I'll see you back in the hood." Saunders' testimony had the ring of truth because although he works for an

agency which provides legal defense services to people who have been arrested by police, he displayed no anti-police bias and he had no reason to invent or exaggerate what he heard Respondent or Person A say because he had no personal contact with Respondent or Person A before, during or after this incident. Most significantly, Saunders candidly acknowledged that he heard Person A use profanity and that Person A spoke to Respondent in a voice that was just as loud as Respondent's voice. Saunders testified that "the police officer was repeatedly calling this man a faggot and a faggoty ass and the man was saying similar things back to him."

Respondent's attorney argued that even if Respondent had used harsh language in addressing Person A, using such language should not constitute misconduct if he was merely questioning Person A's use of harsh language by responding in kind to Person A's use of harsh language. However, even where a police officer is interacting with a civilian who is directing harsh language at the officer, the officer is not supposed to stoop to the low level of discourse that the civilian is using. Moreover, since it is clear that this was not a stressful enforcement situation, there was no need for Respondent to use any harsh language at all in addressing Person A, much less utter an offensive slang word regarding sexual orientation the use of which by a police officer is inexcusable under any circumstances.

Respondent's attorney also argued that even if Respondent had told Person A, "You are calling me a faggot? I'll see you in the street," such a comment would not be discourteous or disrespectful. I disagree since "I'll see you in the street" can be viewed as a not-very-subtle warning regarding future encounters.

Respondent is found Guilty.

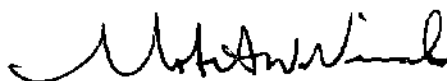
PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on January 20, 2004. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no formal disciplinary record.

The CCRB attorney recommended that Respondent forfeit five vacation days as a penalty. In *Case No. 2013-9862* (June 17, 2014), a nine-year police officer who had no prior disciplinary record forfeited a penalty of five vacation days after he was found guilty at trial of having been discourteous to a civilian by uttering the profanity "fucking" at the civilian and by asking him, "Don't you speak English?"

It is recommended that Respondent forfeit five vacation days.

Respectfully submitted,



Robert W. Vinal
Assistant Deputy Commissioner – Trials

APPROVED

SEP 02 2015

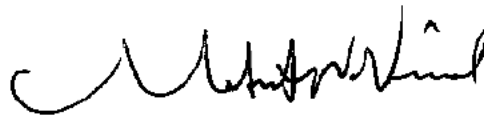
WILLIAM J. BRATTON
POLICE COMMISSIONER

POLICE DEPARTMENT
CITY OF NEW YORK

From: Assistant Deputy Commissioner - Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
SERGEANT LAWRENCE BOSCH
TAX REGISTRY NO. 933652
DISCIPLINARY CASE NO. 2014-12026

The Respondent received an overall rating of 4.5 on his 2013 annual performance evaluation, 4.5 on his 2012 annual evaluation, and 4.5 on his 2011 annual evaluation. He has no medals. [REDACTED] He has no formal disciplinary record and no monitoring records.

For your consideration.



Robert W. Vinal
Assistant Deputy Commissioner – Trials